

AMENDING THE PROVISION OF THE ACT AUTHORIZING PAYMENT  
OF 6 MONTHS' DEATH GRATUITY TO WIDOW, CHILD, OR DE-  
PENDENT RELATIVE OF OFFICERS, ENLISTED MEN, OR NURSES  
OF THE NAVY OR MARINE CORPS

DECEMBER 17 (legislative day, DECEMBER 15), 1943.—Ordered to be printed

Mr. WALSH of Massachusetts, from the Committee on Naval Affairs,  
submitted the following

REPORT

[To accompany S. 1428]

The Committee on Naval Affairs, to whom was referred the bill (S. 1428) to amend the provision of the act authorizing payment of 6 months' death gratuity to widow, child, or dependent relative of officers, enlisted men, or nurses of the Navy or Marine Corps, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The purpose of the bill is to amend the act of June 4, 1920 (41 Stat. 824), as amended by the act of May 22, 1928 (45 Stat. 710), and by the act of March 7, 1942 (56 Stat. 146; 34 U. S. C. Supp. 943), so as to insure that the 6 months' gratuity therein provided is paid to beneficiaries provided for in the law and not to the estates of deceased beneficiaries.

The provision of the act of June 4, 1920, as amended, provides for the payment of an amount equal to 6 months' pay of officers, enlisted men, or nurses of the Navy or Marine Corps to (1) the widow; (2) if there be no widow, to child or children; and (3) if there be no widow or child, to any other dependent relative of such officer, enlisted man, or nurse previously designated by him. The law further provides in cases where there is no surviving widow or child and no designated dependent relative, the Secretary of the Navy shall cause the amount provided to be paid to certain close relatives shown to have been dependent.

In the case of *Campbell, Administrator of Spotswood v. The United States* (80 C. Cls. 836) the court, interpreting a similar law providing for the payment of a similar gratuity to the beneficiaries of officers and enlisted men of the Army, held that where the beneficiary, subsequent to the death of the person in the Army, dies prior to the

payment of the gratuity to such beneficiary, the right of action on a claim for payment of the gratuity passes to the legal representative, who can prosecute it to judgment. The Comptroller General of the United States in a decision rendered to the Secretary of the Navy on February 2, 1943 (22 Comp. Gen. 736), rules that the *Spotswood case* controls as to the law relating to payment of the 6 months' death gratuity in the case of naval personnel. The result of these decisions is that funds provided by law for payment to widows, children, and dependent relatives of deceased members of the armed services may go to the estates of certain of the beneficiaries where they are subject to claims of creditors of such estates, and to the payment of the debts of the deceased beneficiary instead of going to the next beneficiary in the line of succession prescribed by the law. It is believed that such a disposition of the gratuity was not intended by the Congress and the bill is designed to correct the effect of the above interpretations of the law.

Section 1 of the bill seeks to accomplish this result by adding a proviso positively stating that in the event of the death of any beneficiary before payment to and collection of the amount authorized therein, such amount shall be paid to the next living beneficiary in the order of succession before stated. A further change is made in the first proviso of the old law, which covers the order of succession in cases where the deceased service man has no widow, child, or previously designated dependent relative surviving him, in which case the Secretary of the Navy is authorized to cause the amount to be paid to certain dependent relatives. The order of succession has been changed from "grandparent, parent, sister or brother" to "grandchild, parent, brother or sister, or grandparent" in order to follow the generally uniform order of descent and distribution established by State laws.

Section 2 of the bill fixes the right to payments in cases where payments have already been made and cases where there has been a change of status but payment has not been made.

Section 3 of the bill is designed to insure the same rights of payment and distribution of the gratuity to the beneficiary of members of the Naval and Marine Corps Reserve as is accorded to the members of the Regular Navy and Marine Corps.

Section 4 of the bill insures the same rights to members of the Coast and Geodetic Survey.

No additional cost to the Government will result from the enactment of the bill into law.

The bill was introduced at the request of the Navy Department and has been cleared by the Bureau of the Budget.

